

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 155

FINAL READING

Introduced by Rogert, 16; Friend, 10; Howard, 9; Lautenbaugh, 18; Karpisek, 32.

Read first time January 09, 2009

Committee: Judiciary

A BILL

1 FOR AN ACT relating to crimes and punishments; to amend sections
2 28-101, 28-518, 28-603, 28-604, 28-608, 28-611, 29-110,
3 and 87-302, Reissue Revised Statutes of Nebraska; to
4 adopt the Public Protection Act; to change provisions
5 relating to theft offenses, criminal impersonation,
6 identity theft, identity fraud, forgery, bad checks, and
7 no-account checks; to provide a statute of limitations;
8 to create an additional deceptive trade practice under
9 the Uniform Deceptive Trade Practices Act; to change and
10 provide penalties; to harmonize provisions; to provide
11 severability; and to repeal the original sections.

12 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-101, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 28-101 Sections 28-101 to 28-1350 and sections 2 to 6, 8
4 to 12, and 16 of this act shall be known and may be cited as the
5 Nebraska Criminal Code.

6 Sec. 2. Sections 2 to 6 of this act shall be known and
7 may be cited as the Public Protection Act.

8 Sec. 3. (1) The provisions of the Public Protection Act
9 shall be liberally construed to effectuate its remedial purposes.

10 (2) Nothing in the act shall supersede any provision
11 of federal, state, or other law imposing criminal penalties or
12 affording civil remedies in addition to those provided for in the
13 act.

14 Sec. 4. For purposes of the Public Protection Act:

15 (1) Enterprise means any individual, sole proprietorship,
16 partnership, corporation, trust, association, or any legal entity,
17 union, or group of individuals associated in fact although not
18 a legal entity, and shall include illicit as well as licit
19 enterprises as well as other entities;

20 (2) Pattern of racketeering activity means a cumulative
21 loss for one or more victims or gains for the enterprise of not
22 less than one thousand five hundred dollars resulting from at least
23 two acts of racketeering activity, one of which occurred after
24 the effective date of this act and the last of which occurred
25 within ten years, excluding any period of imprisonment, after the

1 commission of a prior act of racketeering activity;

2 (3) Person means any individual or entity, as defined in
3 section 21-2014, holding or capable of holding a legal, equitable,
4 or beneficial interest in property;

5 (4) Prosecutor includes the Attorney General of the
6 State of Nebraska, the deputy attorney general, assistant attorneys
7 general, a county attorney, a deputy county attorney, or any person
8 so designated by the Attorney General, a county attorney, or a
9 court of the state to carry out the powers conferred by the act;

10 (5) Racketeering activity includes the commission of,
11 criminal attempt to commit, conspiracy to commit, aiding and
12 abetting in the commission of, aiding in the consummation of,
13 acting as an accessory to the commission of, or the solicitation,
14 coercion, or intimidation of another to commit or aid in the
15 commission of any of the following:

16 (a) Offenses against the person which include: Murder in
17 the first degree under section 28-303; murder in the second degree
18 under section 28-304; manslaughter under section 28-305; assault in
19 the first degree under section 28-308; assault in the second degree
20 under section 28-309; assault in the third degree under section
21 28-310; terroristic threats under section 28-311.01; kidnapping
22 under section 28-313; false imprisonment in the first degree under
23 section 28-314; false imprisonment in the second degree under
24 section 28-315; sexual assault in the first degree under section
25 28-319; and robbery under section 28-324;

1 (b) Offenses relating to controlled substances which
2 include: To unlawfully manufacture, distribute, deliver, dispense,
3 or possess with intent to manufacture, distribute, deliver, or
4 dispense a controlled substance under subsection (1) of section
5 28-416; possession of marijuana weighing more than one pound
6 under subsection (12) of section 28-416; possession of money
7 used or intended to be used to facilitate a violation of
8 subsection (1) of section 28-416 prohibited under subsection
9 (17) of section 28-416; any violation of section 28-418; to
10 unlawfully manufacture, distribute, deliver, or possess with intent
11 to distribute or deliver an imitation controlled substance under
12 section 28-445; possession of anhydrous ammonia with the intent to
13 manufacture methamphetamine under section 28-451; and possession of
14 ephedrine, pseudoephedrine, or phenylpropanolamine with the intent
15 to manufacture methamphetamine under section 28-452;

16 (c) Offenses against property which include: Arson in
17 the first degree under section 28-502; arson in the second degree
18 under section 28-503; arson in the third degree under section
19 28-504; burglary under section 28-507; theft by unlawful taking
20 or disposition under section 28-511; theft by shoplifting under
21 section 28-511.01; theft by deception under section 28-512; theft
22 by extortion under section 28-513; theft of services under section
23 28-515; theft by receiving stolen property under section 28-517;
24 criminal mischief under section 28-519; and unlawfully depriving
25 or obtaining property or services using a computer under section

1 28-1344;

2 (d) Offenses involving fraud which include: Burning to
3 defraud an insurer under section 28-505; forgery in the first
4 degree under section 28-602; forgery in the second degree under
5 section 28-603; criminal possession of a forged instrument under
6 section 28-604; criminal possession of forgery devices under
7 section 28-605; criminal impersonation under section 10 of this
8 act; identity theft under section 11 of this act; identity fraud
9 under section 12 of this act; false statement or book entry
10 under section 28-612; tampering with a publicly exhibited contest
11 under section 28-614; issuing a false financial statement for
12 purposes of obtaining a financial transaction device under section
13 28-619; unauthorized use of a financial transaction device under
14 section 28-620; criminal possession of a financial transaction
15 device under section 28-621; unlawful circulation of a financial
16 transaction device in the first degree under section 28-622;
17 unlawful circulation of a financial transaction device in the
18 second degree under section 28-623; criminal possession of a blank
19 financial transaction device under section 28-624; criminal sale
20 of a blank financial transaction device under section 28-625;
21 criminal possession of a forgery device under section 28-626;
22 unlawful manufacture of a financial transaction device under
23 section 28-627; laundering of sales forms under section 28-628;
24 unlawful acquisition of sales form processing services under
25 section 28-629; unlawful factoring of a financial transaction

1 device under section 28-630; and fraudulent insurance acts under
2 section 28-631;

3 (e) Offenses involving governmental operations which
4 include: Abuse of public records under section 28-911; perjury or
5 subornation of perjury under section 28-915; bribery under section
6 28-917; bribery of a witness under section 28-918; tampering with
7 a witness or informant or jury tampering under section 28-919;
8 bribery of a juror under section 28-920; assault on an officer in
9 the first degree under section 28-929; assault on an officer in the
10 second degree under section 28-930; assault on an officer in the
11 third degree under section 28-931; and assault on an officer using
12 a motor vehicle under section 28-931.01;

13 (f) Offenses involving gambling which include: Promoting
14 gambling in the first degree under section 28-1102; possession of
15 gambling records under section 28-1105; gambling debt collection
16 under section 28-1105.01; and possession of a gambling device under
17 section 28-1107;

18 (g) Offenses relating to firearms, weapons, and
19 explosives which include: Carrying a concealed weapon under
20 section 28-1202; transportation or possession of machine guns,
21 short rifles, or short shotguns under section 28-1203; unlawful
22 possession of a revolver under section 28-1204; unlawful transfer
23 of a firearm to a juvenile under section 28-1204.01; using a deadly
24 weapon to commit a felony under section 28-1205; possession of a
25 deadly weapon by a felon or a fugitive from justice under section

1 28-1206; possession of a defaced firearm under section 28-1207;
2 defacing a firearm under section 28-1208; unlawful discharge of a
3 firearm under section 28-1212.02; possession, receipt, retention,
4 or disposition of a stolen firearm under section 28-1212.03;
5 unlawful possession of explosive materials in the first degree
6 under section 28-1215; unlawful possession of explosive materials
7 in the second degree under section 28-1216; unlawful sale of
8 explosives under section 28-1217; use of explosives without a
9 permit under section 28-1218; obtaining an explosives permit
10 through false representations under section 28-1219; possession
11 of a destructive device under section 28-1220; threatening the
12 use of explosives or placing a false bomb under section 28-1221;
13 using explosives to commit a felony under section 28-1222; using
14 explosives to damage or destroy property under section 28-1223;
15 and using explosives to kill or injure any person under section
16 28-1224;

17 (h) Any violation of the Securities Act of Nebraska
18 pursuant to section 8-1117;

19 (i) Any violation of the Nebraska Revenue Act of 1967
20 pursuant to section 77-2713;

21 (j) Offenses relating to public health and morals which
22 include: Prostitution under section 28-801; pandering under section
23 28-802; keeping a place of prostitution under section 28-804; human
24 trafficking or forced labor or services under section 28-831; a
25 violation of section 28-1005; and any act relating to the visual

1 depiction of sexually explicit conduct prohibited in the Child
2 Pornography Prevention Act; and

3 (k) A violation of the Computer Crimes Act;

4 (6) State means the State of Nebraska or any political
5 subdivision or any department, agency, or instrumentality thereof;
6 and

7 (7) Unlawful debt means a debt of at least one thousand
8 five hundred dollars:

9 (a) Incurred or contracted in gambling activity which was
10 in violation of federal law or the law of the state or which is
11 unenforceable under state or federal law in whole or in part as to
12 principal or interest because of the laws relating to usury; or

13 (b) Which was incurred in connection with the business
14 of gambling in violation of federal law or the law of the state
15 or the business of lending money or a thing of value at a rate
16 usurious under state law if the usurious rate is at least twice the
17 enforceable rate.

18 Sec. 5. (1) It shall be unlawful for any person who has
19 received any proceeds that such person knew were derived, directly
20 or indirectly, from a pattern of racketeering activity or through
21 collection of an unlawful debt to use or invest, whether directly
22 or indirectly, any part of such proceeds, or the proceeds derived
23 from the investment or use thereof, in the acquisition of any
24 right, interest, or equity in real property or in the establishment
25 or operation of any enterprise. A purchase of securities on the

1 open market for purposes of investment, and without the intention
2 of controlling or participating in the control of the issuer or
3 of assisting another to do so, shall not be unlawful under this
4 subsection if the securities of the issuer held by the purchaser,
5 the members of his or her immediate family, and his or her or
6 their accomplices in any pattern of racketeering activity or the
7 collection of an unlawful debt after such purchase do not amount in
8 the aggregate to one percent of the outstanding securities of any
9 one class and do not confer, either in law or in fact, the power to
10 elect one or more directors of the issuer.

11 (2) It shall be unlawful for any person through a pattern
12 of racketeering activity or through collection of an unlawful debt
13 to acquire or maintain, directly or indirectly, any interest in or
14 control of any enterprise or real property.

15 (3) It shall be unlawful for any person employed by
16 or associated with any enterprise to conduct or participate
17 in, directly or indirectly, the conduct of such enterprise's
18 affairs through a pattern of racketeering activity or collection of
19 unlawful debt.

20 (4) It shall be unlawful for any person to conspire or
21 attempt to violate any of the provisions of subsection (1), (2), or
22 (3) of this section.

23 Sec. 6. (1) A person who violates section 5 of this act
24 shall be guilty of a Class III felony; however, such person shall
25 be guilty of a Class IB felony if the violation is based upon

1 racketeering activity which is punishable as a Class I, IA, or IB
2 felony.

3 (2) In lieu of the fine authorized by section 28-105, any
4 person convicted of engaging in conduct in violation of section
5 5 of this act, through which pecuniary value was derived, or
6 by which personal injury or property damage or other loss was
7 caused, may be sentenced to pay a fine that does not exceed
8 three times the gross value gained or three times the gross loss
9 caused, whichever is greater, plus court costs and the costs
10 of investigation and prosecution reasonably incurred. Any fine
11 collected under this subsection shall be remitted to the State
12 Treasurer for distribution in accordance with Article VII, section
13 5, of the Constitution of Nebraska.

14 Sec. 7. Section 28-518, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 28-518 (1) Theft constitutes a Class III felony when the
17 value of the thing involved is over one thousand five hundred
18 dollars.

19 (2) Theft constitutes a Class IV felony when the value of
20 the thing involved is five hundred dollars or more, but not over
21 one thousand five hundred dollars.

22 (3) Theft constitutes a Class I misdemeanor when the
23 value of the thing involved is more than two hundred dollars, but
24 less than five hundred dollars.

25 (4) Theft constitutes a Class II misdemeanor when the

1 value of the thing involved is two hundred dollars or less.

2 (5) For any second or subsequent conviction under
3 subsection (3) of this section, any person so offending shall be
4 guilty of a Class IV felony.

5 (6) For any second conviction under subsection (4) of
6 this section, any person so offending shall be guilty of a Class
7 I misdemeanor, and for any third or subsequent conviction under
8 subsection (4) of this section, the person so offending shall be
9 guilty of a Class IV felony.

10 (7) Amounts taken pursuant to one scheme or course of
11 conduct from one ~~person~~ or more persons may be aggregated in the
12 indictment or information in determining the classification of the
13 offense, except that amounts may not be aggregated into more than
14 one offense.

15 (8) In any prosecution for theft under sections 28-509
16 to 28-518, value shall be an essential element of the offense that
17 must be proved beyond a reasonable doubt.

18 Sec. 8. For purposes of sections 8 to 12 of this act:

19 (1) Personal identification document means a birth
20 certificate, motor vehicle operator's license, state identification
21 card, public, government, or private employment identification
22 card, social security card, visa work permit, firearm owner's
23 identification card, certificate issued under section 69-2404, or
24 passport or any document made or altered in a manner that it
25 purports to have been made on behalf of or issued to another person

1 or by the authority of a person who did not give that authority.
2 Personal identification document does not include a financial
3 transaction device as defined in section 28-618;

4 (2) Personal identifying information means any name or
5 number that may be used, alone or in conjunction with any other
6 information, to identify a specific person including a person's:
7 (a) Name; (b) date of birth; (c) address; (d) motor vehicle
8 operator's license number or state identification card number
9 as assigned by the State of Nebraska or another state; (e)
10 social security number or visa work permit number; (f) public,
11 private, or government employer, place of employment, or employment
12 identification number; (g) maiden name of a person's mother; (h)
13 number assigned to a person's credit card, charge card, or debit
14 card, whether issued by a financial institution, corporation,
15 or other business entity; (i) number assigned to a person's
16 depository account, savings account, or brokerage account; (j)
17 personal identification number as defined in section 8-157.01;
18 (k) electronic identification number, address, or routing code
19 used to access financial information; (l) digital signature; (m)
20 telecommunications identifying information or access device; (n)
21 unique biometric data, such as fingerprint, voice print, retina
22 or iris image, or other unique physical representation; and (o)
23 other number or information which can be used to access a person's
24 financial resources; and

25 (3) Telecommunications identifying information or access

1 device means a card, plate, code, account number, mobile
2 identification number, or other telecommunications service,
3 equipment, or instrument identifier or means of account access that
4 alone or in conjunction with other telecommunications identifying
5 information or another telecommunications access device may be
6 used to: (a) Obtain money, goods, services, or any other thing of
7 value; or (b) initiate a transfer of funds other than a transfer
8 originated solely by a paper instrument.

9 Sec. 9. For purposes of sections 8 to 12 of this act:

10 (1) Notwithstanding any other provision of law, venue for
11 the prosecution and trial of violations of sections 8 to 12 of
12 this act may be commenced and maintained in any county in which
13 an element of the offense occurred, including the county where a
14 victim resides; and

15 (2) If a person or entity reasonably believes that he,
16 she, or it has been the victim of a violation of sections 8 to
17 12 of this act, the victim may contact a local law enforcement
18 agency which has jurisdiction over the victim's residence, place of
19 business, or registered address. Notwithstanding that jurisdiction
20 may lie elsewhere for investigation and prosecution of a crime
21 of identity theft, the local law enforcement agency shall take
22 the complaint and provide the complainant with a copy of the
23 complaint and refer the complaint to a law enforcement agency in
24 the appropriate jurisdiction.

25 Sec. 10. Section 28-608, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 ~~28-608~~ (1) A person commits the crime of criminal
3 impersonation if he or she:

4 ~~(a) Assumes a false identity and does an act in his or~~
5 ~~her assumed character with intent to gain a pecuniary benefit for~~
6 ~~himself, herself, or another or to deceive or harm another;~~

7 ~~(b)~~ (a) Pretends to be a representative of some person
8 or organization and does an act in his or her pretended fictitious
9 capacity with the intent to gain a pecuniary benefit for himself,
10 herself, or another and to deceive or harm another;

11 ~~(c)~~ (b) Carries on any profession, business, or any other
12 occupation without a license, certificate, or other authorization
13 required by law; or

14 ~~(d) Without the authorization or permission of another~~
15 ~~and with the intent to deceive or harm another;~~

16 ~~(e) Obtains or records personal identification documents~~
17 ~~or personal identifying information; and~~

18 ~~(f) Accesses or attempts to access the financial~~
19 ~~resources of another through the use of a personal identification~~
20 ~~document or personal identifying information for the purpose of~~
21 ~~obtaining credit, money, goods, services, or any other thing of~~
22 ~~value.~~

23 (c) Knowingly provides false personal identifying
24 information or a false personal identification document to a court
25 or a law enforcement officer; or

1 (d) Knowingly provides false personal identifying
2 information or a false personal identification document to an
3 employer for the purpose of obtaining employment.

4 (2) (a) Criminal impersonation, as described in
5 subdivisions (1) (a) and (1) (b) of this section, is a Class III
6 felony if the credit, money, goods, services, or other thing of
7 value that was gained or was attempted to be gained was one
8 thousand five hundred dollars or more. Any second or subsequent
9 conviction under this subdivision is a Class II felony.

10 (b) Criminal impersonation, as described in subdivisions
11 (1) (a) and (1) (b) of this section, is a Class IV felony if the
12 credit, money, goods, services, or other thing of value that was
13 gained or was attempted to be gained was five hundred dollars or
14 more but less than one thousand five hundred dollars. Any second or
15 subsequent conviction under this subdivision is a Class III felony.

16 (c) Criminal impersonation, as described in subdivisions
17 (1) (a) and (1) (b) of this section, is a Class I misdemeanor if the
18 credit, money, goods, services, or other thing of value that was
19 gained or was attempted to be gained was two hundred dollars or
20 more but less than five hundred dollars. Any second or subsequent
21 conviction under this subdivision is a Class IV felony.

22 (d) Criminal impersonation, as described in subdivisions
23 (1) (a) and (1) (b) of this section, is a Class II misdemeanor if
24 no credit, money, goods, services, or other thing of value was
25 gained or was attempted to be gained, or if the credit, money,

1 goods, services, or other thing of value that was gained or was
 2 attempted to be gained was less than two hundred dollars. Any
 3 second conviction under this subdivision is a Class I misdemeanor,
 4 and any third or subsequent conviction under this subdivision is a
 5 Class IV felony.

6 (e) Criminal impersonation, as described in subdivision
 7 (1)(c) of this section, is a Class IV felony. Any second conviction
 8 under this subdivision is a Class III felony, and any third or
 9 subsequent conviction under this subdivision is a Class II felony.

10 (f) Criminal impersonation, as described in subdivision
 11 (1)(d) of this section, is a Class II misdemeanor. Any second
 12 or subsequent conviction under this subdivision is a Class I
 13 misdemeanor.

14 ~~(e)~~ (g) A person found guilty of violating this section
 15 may, in addition to the penalties under this subsection, be ordered
 16 to make restitution pursuant to sections 29-2280 to 29-2289.

17 ~~(3) Criminal impersonation does not mean:~~

18 ~~(a) The lawful obtaining of credit information in the~~
 19 ~~course of a bona fide consumer or commercial transaction;~~

20 ~~(b) The lawful, good faith exercise of a security~~
 21 ~~interest or a right of setoff by a creditor or a financial~~
 22 ~~institution; or~~

23 ~~(c) The lawful, good faith compliance by any person~~
 24 ~~when required by any warrant, levy, garnishment, attachment, court~~
 25 ~~order, or other judicial or administrative order, decree, or~~

1 ~~directive.~~

2 ~~(4) For purposes of this section:~~

3 ~~(a) Personal identification document means a birth~~
4 ~~certificate, motor vehicle operator's license, state identification~~
5 ~~card, public, government, or private employment identification~~
6 ~~card, social security card, visa work permit, firearm owner's~~
7 ~~identification card, certificate issued under section 69-2404, or~~
8 ~~passport or any document made or altered in a manner that it~~
9 ~~purports to have been made on behalf of or issued to another person~~
10 ~~or by the authority of a person who did not give that authority.~~
11 ~~Personal identification document does not include a financial~~
12 ~~transaction device as defined in section 28-618.~~

13 ~~(b) Personal identifying information means any name or~~
14 ~~number that may be used, alone or in conjunction with any other~~
15 ~~information, to identify a specific person including a person's:~~
16 ~~(i) Name; (ii) date of birth; (iii) address; (iv) motor vehicle~~
17 ~~operator's license number or state identification card number~~
18 ~~as assigned by the State of Nebraska or another state; (v)~~
19 ~~social security number or visa work permit number; (vi) public,~~
20 ~~private, or government employer, place of employment, or employment~~
21 ~~identification number; (vii) maiden name of a person's mother;~~
22 ~~(viii) number assigned to a person's credit card, charge card, or~~
23 ~~debit card, whether issued by a financial institution, corporation,~~
24 ~~or other business entity; (ix) number assigned to a person's~~
25 ~~depository account, savings account, or brokerage account; (x)~~

1 ~~personal identification number as defined in section 8-157.01; (xi)~~
2 ~~electronic identification number, address, or routing code used~~
3 ~~to access financial information; (xii) digital signature; (xiii)~~
4 ~~telecommunications identifying information or access device; (xiv)~~
5 ~~unique biometric data, such as fingerprint, voice print, retina~~
6 ~~or iris image, or other unique physical representation; and (xv)~~
7 ~~other number or information which can be used to access a person's~~
8 ~~financial resources; and~~

9 ~~(c) Telecommunications identifying information or access~~
10 ~~device means a card, plate, code, account number, mobile~~
11 ~~identification number, or other telecommunications service,~~
12 ~~equipment, or instrument identifier or means of account access that~~
13 ~~alone or in conjunction with other telecommunications identifying~~
14 ~~information or another telecommunications access device may be~~
15 ~~used to: (i) Obtain money, goods, services, or any other thing of~~
16 ~~value; or (ii) initiate a transfer of funds other than a transfer~~
17 ~~originated solely by a paper instrument.~~

18 Sec. 11. (1) A person commits the crime of identity
19 theft if he or she knowingly takes, purchases, manufactures,
20 records, possesses, or uses any personal identifying information or
21 entity identifying information of another person or entity without
22 the consent of that other person or entity or creates personal
23 identifying information for a fictional person or entity, with the
24 intent to obtain or use the other person's or entity's identity
25 for any unlawful purpose or to cause loss to a person or entity

1 whether or not the person or entity actually suffers any economic
2 loss as a result of the offense, or with the intent to obtain or
3 continue employment or with the intent to gain a pecuniary benefit
4 for himself, herself, or another.

5 (2) Identity theft is not:

6 (a) The lawful obtaining of credit information in the
7 course of a bona fide consumer or commercial transaction;

8 (b) The lawful, good faith exercise of a security
9 interest or a right of setoff by a creditor or a financial
10 institution;

11 (c) The lawful, good faith compliance by any person
12 when required by any warrant, levy, garnishment, attachment, court
13 order, or other judicial or administrative order, decree, or
14 directive; or

15 (d) The investigative activities of law enforcement.

16 (3)(a) Identity theft is a Class III felony if the
17 credit, money, goods, services, or other thing of value that was
18 gained or was attempted to be gained was one thousand five hundred
19 dollars or more. Any second or subsequent conviction under this
20 subdivision is a Class II felony.

21 (b) Identity theft is a Class IV felony if the credit,
22 money, goods, services, or other thing of value that was gained
23 or was attempted to be gained was five hundred dollars or more
24 but less than one thousand five hundred dollars. Any second or
25 subsequent conviction under this subdivision is a Class III felony.

1 (c) Identity theft is a Class I misdemeanor if the
2 credit, money, goods, services, or other thing of value that was
3 gained or was attempted to be gained was two hundred dollars or
4 more but less than five hundred dollars. Any second or subsequent
5 conviction under this subdivision is a Class IV felony.

6 (d) Identity theft is a Class II misdemeanor if no
7 credit, money, goods, services, or other thing of value was
8 gained or was attempted to be gained, or if the credit, money,
9 goods, services, or other thing of value that was gained or was
10 attempted to be gained was less than two hundred dollars. Any
11 second conviction under this subdivision is a Class I misdemeanor,
12 and any third or subsequent conviction under this subdivision is a
13 Class IV felony.

14 (e) A person found guilty of violating this section may,
15 in addition to the penalties under this subsection, be ordered to
16 make restitution pursuant to sections 29-2280 to 29-2289.

17 Sec. 12. (1) A person commits the crime of identity fraud
18 if he or she without lawful authority:

19 (a) Makes, counterfeits, alters, or mutilates any
20 personal identification document with the intent to deceive
21 another; or

22 (b) Willfully and knowingly obtains, possesses, uses,
23 sells or furnishes or attempts to obtain, possess, or furnish
24 to another person for any purpose of deception a personal
25 identification document.

1 (2) (a) Identity fraud is a Class I misdemeanor. Any
2 second or subsequent conviction under this subdivision is a Class
3 IV felony.

4 (b) A person found guilty of violating this section may,
5 in addition to the penalties under this subsection, be ordered to
6 make restitution pursuant to sections 29-2280 to 29-2289.

7 Sec. 13. Section 28-603, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 28-603 (1) Whoever, with intent to deceive or harm,
10 falsely makes, completes, endorses, alters, or utters any written
11 instrument which is or purports to be, or which is calculated to
12 become or to represent if completed, a written instrument which
13 does or may evidence, create, transfer, terminate, or otherwise
14 affect a legal right, interest, obligation, or status, commits
15 forgery in the second degree.

16 (2) Forgery in the second degree is a Class III felony
17 when the face value, or purported face value, or the amount of any
18 proceeds wrongfully procured or intended to be procured by the use
19 of such instrument, is one thousand dollars or more.

20 (3) Forgery in the second degree is a Class IV felony
21 when the face value, or purported face value, or the amount of any
22 proceeds wrongfully procured or intended to be procured by the use
23 of such instrument, exceeds three hundred dollars but is less than
24 one thousand dollars.

25 (4) Forgery in the second degree is a Class I misdemeanor

1 when the face value, or purported face value, or the amount of any
2 proceeds wrongfully procured or intended to be procured by the use
3 of such instrument, is three hundred dollars or less.

4 (5) For the purpose of determining the class of penalty
5 for forgery in the second degree, the face values, or purported
6 face values, or the amounts of any proceeds wrongfully procured
7 or intended to be procured by the use of more than one such
8 instrument, may be aggregated in the indictment or information if
9 such instruments were part of the same scheme or course of conduct
10 which took place within a sixty-day period and within one county.
11 Such values or amounts shall not be aggregated into more than one
12 offense.

13 Sec. 14. Section 28-604, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 28-604 (1) Whoever, with knowledge that it is forged and
16 with intent to deceive or harm, possesses any forged instrument
17 covered by section 28-602 or 28-603 commits criminal possession of
18 a forged instrument.

19 (2) Criminal possession of a forged instrument prohibited
20 by section 28-602 is a Class IV felony.

21 (3) Criminal possession of a forged instrument prohibited
22 by section 28-603, the amount or value of which is one thousand
23 dollars or more, is a Class IV felony.

24 (4) Criminal possession of a forged instrument prohibited
25 by section 28-603, the amount or value of which is more than three

1 hundred dollars but less than one thousand dollars, is a Class I
2 misdemeanor.

3 (5) Criminal possession of a forged instrument prohibited
4 by section 28-603, the amount or value of which is three hundred
5 dollars or less, is a Class II misdemeanor.

6 (6) For the purpose of determining the class of penalty
7 for criminal possession of a forged instrument prohibited by
8 section 28-603, the amounts or values of more than one such forged
9 instrument may be aggregated in the indictment or information if
10 such forged instruments were part of the same scheme or course of
11 conduct which took place within a sixty-day period and within one
12 county. Such amounts or values shall not be aggregated into more
13 than one offense.

14 Sec. 15. Section 28-611, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 28-611 (1) Whoever obtains property, services, or present
17 value of any kind by issuing or passing a check, draft, assignment
18 of funds, or similar signed order for the payment of money, ~~knowing~~
19 ~~that he or she has no account with the drawee at the time the~~
20 ~~check, draft, assignment of funds, or order is issued or, if he or~~
21 ~~she has an account,~~ knowing that he or she does not have sufficient
22 funds in or credit with the drawee for the payment of the check,
23 draft, assignment of funds, or order in full upon presentation,
24 commits the offense of issuing a bad check. Issuing a bad check is:

25 (a) A Class III felony if the amount of the check, draft,

1 assignment of funds, or order is one thousand five hundred dollars
2 or more;

3 (b) A Class IV felony if the amount of the check, draft,
4 assignment of funds, or order is five hundred dollars or more, but
5 less than one thousand five hundred dollars;

6 (c) A Class I misdemeanor if the amount of the check,
7 draft, assignment of funds, or order is ~~one~~ two hundred dollars or
8 more, but less than five hundred dollars; and

9 (d) A Class II misdemeanor if the amount of the check,
10 draft, assignment of funds, or order is less than ~~one~~ two hundred
11 dollars.

12 (2) The aggregate amount of any series of checks, drafts,
13 assignments, or orders issued or passed within a sixty-day period
14 in one county may be used in determining the classification of the
15 offense pursuant to ~~this subsection (1) of this section~~, except
16 that checks, drafts, assignments, or orders may not be aggregated
17 into more than one offense.

18 ~~(2)~~ (3) For any second or subsequent offense under
19 subdivision (1)(c) or (1)(d) of this section, any person so
20 offending shall be guilty of a Class IV felony.

21 ~~(3)~~ (4) Whoever otherwise issues or passes a check,
22 draft, assignment of funds, or similar signed order for the payment
23 of money, ~~knowing that he or she has no account with the drawee at~~
24 ~~the time the check, draft, assignment of funds, or order is issued~~
25 ~~or, if he or she has an account, knowing that he or she does not~~

1 have sufficient funds in or credit with the drawee for the payment
2 of the check, draft, assignment of funds, or order in full upon its
3 presentation, shall be guilty of a Class II misdemeanor.

4 ~~(4)~~ (5) Any person in violation of this section who
5 makes voluntary restitution to the injured party for the value of
6 the check, draft, assignment of funds, or order shall also pay
7 ten dollars to the injured party and any reasonable handling fee
8 imposed on the injured party by a financial institution.

9 ~~(5)~~ (6) In any prosecution ~~when~~ for issuing a bad check,
10 the person issuing the check, draft, assignment of funds, or order
11 ~~has an account with the drawee,~~ he or she shall be presumed to have
12 known that he or she did not have sufficient funds in or credit
13 with the drawee for the payment of the check, draft, assignment of
14 funds, or order in full upon presentation if, within thirty days
15 after issuance of the check, draft, assignment of funds, or order,
16 he or she was notified that the drawee refused payment for lack of
17 funds and he or she failed within ten days after such notice to
18 make the check, draft, assignment of funds, or order good or, in
19 the absence of such notice, he or she failed to make the check,
20 draft, assignment of funds, or order good within ten days after
21 notice that such check, draft, assignment of funds, or order has
22 been returned to the depositor was sent to him or her by the county
23 attorney or his or her deputy, by United States mail addressed to
24 such person at his or her last-known address. Upon request of the
25 depositor and the payment of ten dollars for each check, draft,

1 assignment of funds, or order, the county attorney or his or her
2 deputy shall be required to mail notice to the person issuing the
3 check, draft, assignment of funds, or order as provided in this
4 subsection. The ten-dollar payment shall be payable to the county
5 treasurer and credited to the county general fund. No such payment
6 shall be collected from any county office to which such a check,
7 draft, assignment of funds, or order is issued in the course of the
8 official duties of the office.

9 ~~(6)~~ (7) Any person convicted of violating this section
10 may, in addition to a fine or imprisonment, be ordered to make
11 restitution to the party injured for the value of the check, draft,
12 assignment of funds, or order and to pay ten dollars to the injured
13 party and any reasonable handling fee imposed on the injured party
14 by a financial institution. If the court, in addition to sentencing
15 any person to imprisonment under this section, also enters an order
16 of restitution, the time permitted to make such restitution shall
17 not be concurrent with the sentence of imprisonment.

18 ~~(7)~~ (8) The fact that restitution to the party injured
19 has been made and that ten dollars and any reasonable handling
20 fee imposed on the injured party by a financial institution have
21 been paid to the injured party shall be a mitigating factor in the
22 imposition of punishment for any violation of this section.

23 Sec. 16. (1) Whoever issues or passes a check, draft,
24 assignment of funds, or similar signed order for the payment of
25 money, knowing that he or she has no account with the drawee

1 at the time the check, draft, assignment of funds, or order is
2 issued, commits the offense of issuing a no-account check. Issuing
3 a no-account check is:

4 (a) A Class III felony if the amount of the check, draft,
5 assignment of funds, or order is one thousand five hundred dollars
6 or more;

7 (b) A Class IV felony if the amount of the check, draft,
8 assignment of funds, or order is five hundred dollars or more, but
9 less than one thousand five hundred dollars;

10 (c) A Class I misdemeanor if the amount of the check,
11 draft, assignment of funds, or order is two hundred dollars or
12 more, but less than five hundred dollars; and

13 (d) A Class II misdemeanor if the amount of the check,
14 draft, assignment of funds, or order is less than two hundred
15 dollars.

16 (2) The aggregate amount of any series of checks, drafts,
17 assignments, or orders issued or passed within a sixty-day period
18 in one county may be used in determining the classification of the
19 offense pursuant to subsection (1) of this section, except that
20 checks, drafts, assignments, or orders may not be aggregated into
21 more than one offense.

22 (3) For any second or subsequent offense under this
23 section, any person so offending shall be guilty of:

24 (a) A Class III felony if the amount of the check, draft,
25 assignment of funds, or order is five hundred dollars or more; and

1 (b) A Class IV felony if the amount of the check, draft,
2 assignment of funds, or order is less than five hundred dollars.

3 Sec. 17. Section 29-110, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 29-110 (1) Except as otherwise provided by law, no person
6 shall be prosecuted for any felony unless the indictment is found
7 by a grand jury within three years next after the offense has
8 been done or committed or unless a complaint for the same is filed
9 before the magistrate within three years next after the offense
10 has been done or committed and a warrant for the arrest of the
11 defendant has been issued.

12 (2) Except as otherwise provided by law, no person shall
13 be prosecuted, tried, or punished for any misdemeanor or other
14 indictable offense below the grade of felony or for any fine or
15 forfeiture under any penal statute unless the suit, information,
16 or indictment for such offense is instituted or found within one
17 year and six months from the time of committing the offense or
18 incurring the fine or forfeiture or within one year for any offense
19 the punishment of which is restricted by a fine not exceeding one
20 hundred dollars and to imprisonment not exceeding three months.

21 (3) Except as otherwise provided by law, no person
22 shall be prosecuted for kidnapping under section 28-313, false
23 imprisonment under section 28-314 or 28-315, child abuse under
24 section 28-707, pandering under section 28-802, debauching a
25 minor under section 28-805, or an offense under section 28-813,

1 28-813.01, or 28-1463.03 when the victim is under sixteen years of
2 age at the time of the offense (a) unless the indictment for such
3 offense is found by a grand jury within seven years next after the
4 offense has been committed or within seven years next after the
5 victim's sixteenth birthday, whichever is later, or (b) unless a
6 complaint for such offense is filed before the magistrate within
7 seven years next after the offense has been committed or within
8 seven years next after the victim's sixteenth birthday, whichever
9 is later, and a warrant for the arrest of the defendant has been
10 issued.

11 (4) No person shall be prosecuted for a violation of
12 the Securities Act of Nebraska under section 8-1117 unless the
13 indictment for such offense is found by a grand jury within five
14 years next after the offense has been done or committed or unless
15 a complaint for such offense is filed before the magistrate within
16 five years next after the offense has been done or committed and a
17 warrant for the arrest of the defendant has been issued.

18 (5) No person shall be prosecuted for criminal
19 impersonation under section 10 of this act, identity theft under
20 section 11 of this act, or identity fraud under section 12 of this
21 act unless the indictment for such offense is found by a grand
22 jury within five years next after the offense has been done or
23 committed or unless a complaint for such offense is filed before
24 the magistrate within five years next after the offense has been
25 done or committed and a warrant for the arrest of the defendant

1 has been issued.

2 ~~(5)~~ (6) There shall not be any time limitations for
3 prosecution or punishment for treason, murder, arson, forgery,
4 sexual assault in the first or second degree under section 28-319
5 or 28-320, sexual assault of a child in the second or third degree
6 under section 28-320.01, or sexual assault of a child in the
7 first degree under section 28-319.01; nor shall there be any time
8 limitations for prosecution or punishment for sexual assault in the
9 third degree under section 28-320 when the victim is under sixteen
10 years of age at the time of the offense.

11 ~~(6)~~ (7) The time limitations prescribed in this section
12 shall include all inchoate offenses pursuant to the Nebraska
13 Criminal Code and compounding a felony pursuant to section 28-301.

14 ~~(7)~~ (8) The time limitations prescribed in this section
15 shall not extend to any person fleeing from justice.

16 ~~(8)~~ (9) When any suit, information, or indictment for any
17 crime or misdemeanor is limited by any statute to be brought or
18 exhibited within any other time than is limited by this section,
19 then the suit, information, or indictment shall be brought or
20 exhibited within the time limited by such statute.

21 ~~(9)~~ (10) If any suit, information, or indictment is
22 quashed or the proceedings set aside or reversed on writ of
23 error, the time during the pendency of such suit, information, or
24 indictment so quashed, set aside, or reversed shall not be reckoned
25 within this statute so as to bar any new suit, information, or

1 indictment for the same offense.

2 ~~(10)~~ (11) The changes made to this section by Laws 2004,
3 LB 943, shall apply to offenses committed prior to April 16, 2004,
4 for which the statute of limitations has not expired as of such
5 date and to offenses committed on or after such date.

6 ~~(11)~~ (12) The changes made to this section by Laws 2005,
7 LB 713, shall apply to offenses committed prior to September 4,
8 2005, for which the statute of limitations has not expired as of
9 such date and to offenses committed on or after such date.

10 Sec. 18. Section 87-302, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 87-302 (a) A person engages in a deceptive trade
13 practice when, in the course of his or her business, vocation,
14 or occupation, he or she:

15 (1) Passes off goods or services as those of another;

16 (2) Causes likelihood of confusion or of misunderstanding
17 as to the source, sponsorship, approval, or certification of goods
18 or services;

19 (3) Causes likelihood of confusion or of misunderstanding
20 as to affiliation, connection, or association with, or
21 certification by, another;

22 (4) Uses deceptive representations or designations of
23 geographic origin in connection with goods or services;

24 (5) Represents that goods or services have sponsorship,
25 approval, characteristics, ingredients, uses, benefits, or

1 quantities that they do not have or that a person has a
2 sponsorship, approval, status, affiliation, or connection that he
3 or she does not have;

4 (6) Represents that goods are original or new if they
5 are deteriorated, altered, reconditioned, reclaimed, used, or
6 secondhand, except that sellers may repair damage to and make
7 adjustments on or replace parts of otherwise new goods in an effort
8 to place such goods in compliance with factory specifications;

9 (7) Represents that goods or services are of a particular
10 standard, quality, or grade, or that goods are of a particular
11 style or model, if they are of another;

12 (8) Disparages the goods, services, or business of
13 another by false or misleading representation of fact;

14 (9) Advertises goods or services with intent not to sell
15 them as advertised or advertises the price in any manner calculated
16 or tending to mislead or in any way deceive a person;

17 (10) Advertises goods or services with intent not
18 to supply reasonably expectable public demand, unless the
19 advertisement discloses a limitation of quantity;

20 (11) Makes false or misleading statements of fact
21 concerning the reasons for, existence of, or amounts of price
22 reductions;

23 (12) Uses or promotes the use of a chain distributor
24 scheme in connection with the solicitation of business or personal
25 investments from members of the public;

1 (13) With respect to a sale or lease to a natural person
2 of goods or services purchased or leased primarily for personal,
3 family, household, or agricultural purposes, uses or employs any
4 referral or chain referral sales technique, plan, arrangement, or
5 agreement;

6 (14) Knowingly makes a false or misleading statement in a
7 privacy policy, published on the Internet or otherwise distributed
8 or published, regarding the use of personal information submitted
9 by members of the public;

10 (15) Uses any scheme or device to defraud by means of:

11 (i) Obtaining money or property by knowingly false or
12 fraudulent pretenses, representations, or promises; or

13 (ii) Selling, distributing, supplying, furnishing, or
14 procuring any property for the purpose of furthering such scheme;

15 (16) Offers an unsolicited check, through the mail or
16 by other means, to promote goods or services if the cashing or
17 depositing of the check obligates the endorser or payee identified
18 on the check to pay for goods or services. This subdivision does
19 not apply to an extension of credit or an offer to lend money;

20 (17) Mails or causes to be sent an unsolicited billing
21 statement, invoice, or other document that appears to obligate the
22 consumer to make a payment for services or merchandise he or she
23 did not order; or

24 (18) Violates any provision of the Nebraska Foreclosure
25 Protection Act.

1 (b) In order to prevail in an action under the Uniform
2 Deceptive Trade Practices Act, a complainant need not prove
3 competition between the parties.

4 (c) This section does not affect unfair trade practices
5 otherwise actionable at common law or under other statutes of this
6 state.

7 Sec. 19. If any section in this act or any part of any
8 section is declared invalid or unconstitutional, the declaration
9 shall not affect the validity or constitutionality of the remaining
10 portions.

11 Sec. 20. Original sections 28-101, 28-518, 28-603,
12 28-604, 28-608, 28-611, 29-110, and 87-302, Reissue Revised
13 Statutes of Nebraska, are repealed.